



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–HQ–ES–2014–0037]

[4500030113]

RIN 1018-BA55

Endangered and Threatened Wildlife and Plants; Adding 10 Species to the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), in accordance with the Endangered Species Act of 1973, as amended (Act), are amending the List of Endangered and Threatened Wildlife (List) by adding: five species of foreign sturgeon (Adriatic sturgeon (*Acipenser naccarii*), Chinese sturgeon (*A. sinensis*), European sturgeon (*A. sturio*), Kaluga

sturgeon (*Huso dauricus*), and Sakhalin sturgeon (*A. mikadoi*)); four distinct population segments (DPSs) of scalloped hammerhead shark (*Sphyrna lewini*) (Central and Southwest Atlantic (Central & SW Atlantic) DPS, Eastern Atlantic DPS, Indo-West Pacific DPS, and Eastern Pacific DPS); and a nonessential experimental population of Upper Columbia River spring-run Chinook salmon (*Oncorhynchus tshawytscha*). These amendments are based on previously published determinations by the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration, Department of Commerce, which has jurisdiction for these species.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Applicability dates: The five sturgeon listings are effective as of July 2, 2014; the scalloped hammerhead shark DPS listings are effective as of September 2, 2014; and the designation of a nonessential experimental population of Upper Columbia River spring-run Chinook salmon is effective as of August 11, 2014.

FOR FURTHER INFORMATION CONTACT: Douglas Krofta, Chief, Branch of Endangered Species Listing, U.S. Fish and Wildlife Service, MS-ES, 5275 Leesburg Pike, Falls Church, VA 22041-3803; 703-358-2171.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Act (16 U.S.C. 1531 et seq.) and Reorganization Plan No. 4 of 1970 (35 FR 15627; October 6, 1970), NMFS has jurisdiction over the marine and

anadromous taxa identified in this rule. Under section 4(a)(2) of the Act, NMFS must decide whether a species under its jurisdiction should be classified as an endangered or threatened species. NMFS makes these determinations via its rulemaking process. We, the Service, are then responsible for publishing final rules to amend the List in the Code of Federal Regulations (CFR) at 50 CFR 17.11(h).

On October 31, 2013, NMFS published a proposed rule (78 FR 65249) to list the Adriatic sturgeon, Chinese sturgeon, European sturgeon, Kaluga sturgeon, and Sakhalin sturgeon as endangered species. NMFS solicited public comments on the proposed rule through December 30, 2013. On June 2, 2014, NMFS published a final rule (79 FR 31222) to list the five species of sturgeon as endangered species. The listing is effective as of July 2, 2014. In that final rule, NMFS addressed all public comments received in response to the proposed rule. By publishing this final rule, we are simply taking the necessary administrative step to codify these changes in the List in the CFR.

On April 5, 2013, NMFS published a proposed rule (78 FR 20718) to list four DPSs of scalloped hammerhead shark under the Act. NMFS proposed to list the Central & SW Atlantic DPS and Indo-West Pacific DPS as threatened species, and the Eastern Atlantic DPS and Eastern Pacific DPS as endangered species. NMFS solicited public comments on the proposed rule through June 4, 2013. On July 3, 2014, NMFS published a final rule (79 FR 38214) to list the Central & SW Atlantic DPS and Indo-West Pacific DPS of scalloped hammerhead shark as threatened species, and the Eastern Atlantic DPS and Eastern Pacific DPS of scalloped hammerhead shark as endangered species. The listing is effective as of

September 2, 2014. In that final rule, NMFS addressed all public comments received in response to the proposed rule. By publishing this final rule, we are simply taking the necessary administrative step to codify these changes in the List in the CFR.

On October 24, 2013, NMFS published a proposed rule (78 FR 63439) to designate and authorize the release of a nonessential experimental population (NEP) of Upper Columbia River spring-run Chinook salmon under section 10(j) of the Act in the Okanogan River subbasin, and to establish a limited set of take prohibitions for that population. NMFS solicited public comments on the proposed rule through December 9, 2013. On July 11, 2014, NMFS published a final rule (79 FR 40004) to designate and authorize the release of this NEP of Upper Columbia River spring-run Chinook salmon in the Okanogan River subbasin, and established a limited set of take prohibitions for this NEP. The listing is effective as of August 11, 2014. In that final rule, NMFS addressed all public comments received in response to the proposed rule. By publishing this final rule, we are simply taking the necessary administrative step to codify these changes in the List in the CFR.

Administrative Procedure Act

Because NMFS provided a public comment period on the proposed rules for these taxa, and because this action of the Service to amend the List in accordance with the determination by NMFS is nondiscretionary, the Service finds good cause that the notice and public comment procedures of 5 U.S.C. 553(b) are unnecessary for this action. We also find good cause under 5 U.S.C. 553(d)(3) to make this rule effective immediately. The NMFS rules extended protection under the Act to these species and listed them in 50 CFR parts 223

and 224; this rule is an administrative action to add the species to the List of Endangered and Threatened Wildlife at 50 CFR 17.11(h). The public would not be served by delaying the effective date of this rulemaking action.

Required Determinations

National Environmental Policy Act

We have determined that an environmental assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We outlined our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 1531-1544; 4201-4245, unless otherwise noted.

2. Amend §17.11(h) by adding entries to the List of Endangered and Threatened Wildlife under FISHERIES as follows:

a. Immediately following the entry for “Salmon, Chinook (Upper Columbia River spring-run ESU)”, add an entry for “Salmon, Chinook (Upper Columbia River spring-run ESU–XN)”; and

b. In alphabetical order , add entries for “Shark, scalloped hammerhead (Central & SW Atlantic DPS)”; “Shark, scalloped hammerhead (Eastern Atlantic DPS)”; “Shark, scalloped hammerhead (Eastern Pacific DPS)”; “Shark, scalloped hammerhead (Indo-West Pacific DPS)”; “Sturgeon, Adriatic”; “Sturgeon, Chinese”; “Sturgeon, European”; “Sturgeon, Kaluga”; and “Sturgeon, Sakhalin”.

The additions read as follows:

§17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
* * * * * FISHES * * * * *							
Salmon, Chinook (Upper Columbia River spring-run ESU—XN)	<i>Oncorhynchus tshawytscha</i>	North America from Ventura River in California to Point Hope, Alaska, and the Mackenzie River area in Canada; northeast Asia from Hokkaido, Japan, to the Anadyr River, Russia	Upper Columbia River spring-run ESU—XN—see 50 CFR 223.102	XN	845	NA	223.301
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Shark, scalloped hammerhead (Central & SW Atlantic DPS)	<i>Sphyrna lewini</i>	Central and Southwest Atlantic Ocean, including Caribbean Sea	Central & SW Atlantic DPS—see 50 CFR 223.102	T	845	NA	NA
Shark, scalloped hammerhead (Eastern Atlantic DPS)	<i>Sphyrna lewini</i>	Eastern Atlantic Ocean, including Mediterranean Sea	Eastern Atlantic DPS—see 50 CFR 224.101	E	845	NA	NA
Shark, scalloped hammerhead (Eastern Pacific DPS)	<i>Sphyrna lewini</i>	Eastern Pacific Ocean	Eastern Pacific DPS—see 50 CFR 224.101	E	845	NA	NA
Shark, scalloped hammerhead (Indo-West Pacific DPS)	<i>Sphyrna lewini</i>	Indian Ocean and Western Pacific Ocean	Indo-West Pacific DPS—see 50 CFR 223.102	T	845	NA	NA
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Sturgeon, Adriatic	<i>Acipenser naccarii</i>	Adriatic Sea	Entire	E	845	NA	NA
* * * * *							

Sturgeon, Chinese	<i>Acipenser sinensis</i>	Northwest Pacific Ocean in China, Japan, South Korea, and North Korea	Entire	E	845	NA	NA
Sturgeon, European	<i>Acipenser sturio</i>	North Sea, the English Channel, and most European coasts of the Atlantic Ocean, the Mediterranean Sea, and the Black Sea	Entire	E	845	NA	NA
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Sturgeon, Kaluga	<i>Huso dauricus</i>	Amur River basin, Sea of Okhotsk and the Sea of Japan	Entire	E	845	NA	NA
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Sturgeon, Sakhalin	<i>Acipenser mikadoi</i>	Northwest Pacific Ocean in Japan and Russia	Entire	E	845	NA	NA
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Dated: August 25, 2014.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

Billing Code 4310-55-P

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